

**SENATE CONCURRENT  
RESOLUTION No. \_\_\_\_\_**

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DIGEST OF INTRODUCED RESOLUTION

A CONCURRENT RESOLUTION urging Attorney General Greg Zoeller, on behalf of the citizens of Indiana, to join the effort of 14 other state attorneys general in exploring the options available to Indiana and other states regarding the potential passage of the Patient Protection and Affordable Care Act.

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**SCHNEIDER**

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\_\_\_\_\_, read first time and referred to Committee on

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A CONCURRENT RESOLUTION urging Attorney General Greg Zoeller, on behalf of the citizens of Indiana, to join the effort of 14 other state attorneys general in exploring the options available to Indiana and other states regarding the potential passage of the Patient Protection and Affordable Care Act.

*Whereas, The Patient Protection and Affordable Care Act (Act) is currently being debated in the United States Congress;*

*Whereas, If passed, the Patient Protection and Affordable Care Act would establish a federal government mandate that would require citizens to purchase health insurance or face a tax penalty. The non-partisan Congressional Budget Office pointed out that, "the imposition of an individual mandate [would be] unprecedented. The government has never required people to buy any good or service as a condition of lawful residence in the United States." The Indiana General Assembly urges the Attorney General to research and give an opinion of the constitutionality of the Act, specifically regarding the individual mandate to citizens of Indiana;*

*Whereas, The Senate version of the Act would impose billions of dollars of new Medicaid obligations on 49 states, while singling out Nebraska for special treatment. The increased Medicaid expenses will be fully funded, in*



*perpetuity, by taxpayers from all states except Nebraska;*

*Whereas, Attorney General Greg Zoeller issued an opinion on the Act and found that the taxpayers of Indiana would bear substantial costs. The bill would add roughly half a million more Hoosiers to Medicaid and create unintended consequences for patients, taxpayers, and Indiana's medical device industry;*

*Whereas, The Attorney General prepared a report detailing the legal and constitutional challenges likely to be litigated should the Act become law. In the report, the Attorney General noted that the scope of the bill, along with many of its provisions, are unprecedented in nature;*

*Whereas, The Attorney General's report found that several provisions of the Senate version of the Act may be struck down as unconstitutional if challenged in court. In particular, the Attorney General found that the "individual mandate" requiring everyone to buy health insurance or face a penalty would be unprecedented. According to the report, the federal government has never required Americans to purchase any good or service, nor regulated inactivity;*

*Whereas, The report further found that the "Nebraska Compromise" may be struck down as unconstitutional. The "Nebraska Compromise" amendment would expand the number of Medicaid participants in all states in order to fully fund the expansion of Nebraska, leaving the other 49 states (including Indiana) to absorb the additional costs. According to the report, this disparate treatment appears to violate Article I of the United States Constitution. Attorney General Zoeller said, "But even allowing for wide latitude in congressional deal-making, the unfairness and favoritism of the Nebraska Compromise goes too far";*

*Whereas, According to the report, another problem with the Act involves the insurance exchanges. The bill would require states to create insurance exchanges and for-profit*



*health insurers to offer certain types of coverage. According to the report, the result would make private insurers highly-regulated entities similar to public utilities. Further, before insurance exchanges are available, states would be required to administer a temporary reinsurance program for high-risk patients. According to the report, such a mandatory obligation might be found unconstitutional;*

*Whereas, The report described the effect on Indiana Medicaid costs as another potential problem with the Act. The Act would expand the Medicaid program by approximately half a million people, which would increase Indiana's Medicaid costs by \$2.4 billion over 10 years. The Act would also divert pharmaceutical rebate savings from Indiana to the federal government, costing the state \$750 million by 2019. According to an estimate from FSSA, it will cost Indiana between \$60 million and \$80 million to implement the insurance exchange to accommodate program growth. According to the report, the influx of new patients at reduced reimbursement rates could drive medical providers out of the Medicaid system and health insurance plans for Indiana state government employees would need to be reevaluated;*

*Whereas, The report further found that the Senate version of the Act may preempt the Healthy Indiana Plan, which permitted low-income citizens to purchase state-run health coverage. The report predicts that federal legislation would preempt HIP, causing HIP to be shut down as participants are shifted to the federal plan. The report further predicts that some state insurance regulations and licensing requirements would also be preempted;*

*Whereas, The economic impact of the Act was also explored in the report. The report indicates that the Senate version of the Act would have a substantial negative impact on pharmaceutical manufacturers and medical device manufacturers due to new excise taxes being imposed on both industries. Together, these industries employed 35,500*



*Hoosiers in 2007; and*

*Whereas, In light of this report, the Indiana General Assembly urges Attorney General Greg Zoeller to explore all options available to Indiana and other states regarding the potential passage of the Patient Protection and Affordable Care Act, including potential legal action to protect the freedom of the citizens of Indiana: Therefore,*

*Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:*

1           SECTION 1. The Indiana General Assembly urges Attorney  
2           General Greg Zoeller, on behalf of the citizens of Indiana to explore  
3           all options available to Indiana and other states regarding the potential  
4           passage of the Patient Protection and Affordable Care Act, including  
5           potential legal action to protect the freedom of the citizens of Indiana.

6           SECTION 2. The Secretary of the Senate is hereby directed to  
7           transmit a copy of this Resolution to Attorney General Greg Zoeller.

